

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION)	MDL No. 2804
OPIATE LITIGATION)	
)	Case No. 17-md-2804
)	
This document applies to All Cases.)	Judge Dan Aaron Polster
)	

SECOND AMENDED NOTICE OF ARCOS DISCLOSURE

1) COME NOW, the Plaintiffs, by and through Co-Leads and the Plaintiffs' Executive Committee, and pursuant to the *Protective Order Re: DEA's ARCOS/DADS Database* (Doc. #167) and the *Amendment to Protective Order*, (Doc. #400) (together, the "ARCOS Protective Order"), the *Order Regarding Plaintiffs' Motion for Modification of CMO-1* (Doc. #739), and after consultation with parties of interest, gives notice of this amended procedure to share with: (1) all counsel for State Attorneys General, counties, cities, municipalities, Native American Tribes litigating opioid-related matters in courts within the United States involving the marketing, distribution, sale or use of Opioid related drugs and/or for law enforcement purposes ("Opioid Litigation"); and (2) hospitals who are plaintiffs in the MDL ("MDL Plaintiff Hospitals") the materials identified in Paragraph 2.

2) (A) The entirety of the SORs previously produced in this litigation by the DEA; (B) the entirety of the unprocessed ARCOS data previously produced in this litigation by the DEA; (C) county level SLCG¹ Processed ARCOS data; and/or (D) county² level reports³ as identified below:

1. County Level Distributor Reports that include the following information:

i. State level summary distributor market share by MME;

¹ Securities Litigation and Consulting Group, Inc

² As used herein the term county includes parishes.

³ The county level reports include data for all drugs for which the DEA provided ARCOS data except the two treatment drugs, specifically, methadone and buprenorphine.

- ii. State level summary distributor market share by dosage units;
- iii. State level summary distributor market share by dosage units by distributor family;
- iv. State versus county level market share comparison by total dosage units;
- v. County level summary distributor market share by MME;
- vi. County level summary distributor market share by dosage units;
- vii. County level distributor summary chart;
- viii. County level summary distributor market share by dosage units by distributor family;
- ix. County level per capita total dosage units;
- x. Chart of county level market share and total dosage units per capita;
- xi. County level market share by distributor;
- xii. Charts of county level market share by distributor.

2. County Level Labeler Reports that include the following information:

- i. County level labeler⁴ market share by MME total for 2006 through 2014;
- ii. County level labeler market share by dosage units total for 2006 through 2014;
- iii. County level labeler market share by MME by year;
- iv. County level labeler market share by dosage units by year;

⁴ Labeler information was derived using the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration code for each drug and cross referencing against the Food and Drug Administration, National Drug Code Directory and list of NDC/NHRIC Labeler Codes. A list of NDC/NHRIC Labeler Codes is available at:

<https://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/ucm191017.htm>. Food

and Drug Administration, National Drug Code Directory available at:

<https://www.deadiversion.usdoj.gov/arcos/ndc/ndcfile.txt>;

<https://www.deadiversion.usdoj.gov/arcos/ndc/readme.txt>. Additionally, the ARCOS Registrant Handbook provides the following definitions relating to labeler: A packer/repacker is a registrant that packs a product into a container (i.e., packer) or repacks a product into different size containers, such as changing a package of 50 capsules to 5 packages of 10 capsules each. A labeler/relabeler is a registrant that affixes the original label to a product (i.e., labeler) or changes in any way the labeling on a product without affecting the product or its container (i.e., relabeler). The “relabel” term implies that the package size remains unchanged with changes being made only in brand name, NDC number, distributor, etc. Registrant Handbook at 6-2, available at: <https://www.deadiversion.usdoj.gov/arcos/handbook/full.pdf#search=arcos%20handbook>.

- v. County level labeler market share data by MME;
- vi. County level market share data by dosage units.

3. County Level Pharmacy Reports that include the following information:

- i. County level listing of all opioid shipments to all pharmacies within the county by total dosage units, weight in mgs and total MME;
- ii. County level summary of all opioid shipments to all pharmacies within the county;
- iii. County level listing by distributor by year of total dosage units, mgs and MME as well as average pharmacy MME in county, average pharmacy MME in the state and MME percale in state;
- iv. For each pharmacy in the county reports showing:
 - a. opioid shipments by distributor by year;
 - b. chart of total dosage units by drug family shipped to pharmacy;
 - c. chart of total MME by drug family shipped to pharmacy;

3) County level SLCG Processed ARCOS data and county level reports, as enumerated in C and D above, will be provided to counsel as follows:

- a. State Attorneys General – county level SLCG Processed ARCOS data and county level reports for all counties in the state;
- b. Cities - county level SLCG Processed ARCOS data and county level reports for the county in which the city is located;
- c. Counties - county level SLCG Processed ARCOS data and county level reports for that county;
- d. Native American Tribes - county level SLCG Processed ARCOS data and county level reports for all counties included, in whole or in part, within its territorial boundaries;
- e. MDL Plaintiff Hospitals - county level SLCG Processed ARCOS data and county level reports for the county in which the hospital is physically located.

4) In order to obtain the data outlined above, counsel involved in Opioid Litigation (“Requesting Counsel”) must (a) review the ARCOS Protective Order (Doc. 1545)

and execute the appropriate Acknowledgement of Protective Order and Agreement to be Bound attached hereto as Attachments B & C; (b) have a client representative review the ARCOS Protective Order (Doc. 1545) and execute the appropriate Acknowledgement of Protective Order and Agreement to be Bound attached hereto as Attachments B & C (c) complete and execute the ARCOS Information Request Form and Affidavit, attached hereto as Attachment A that certifying that Requesting Counsel is counsel for State Attorneys General, cities, counties, Native American Tribes, and/or MDL Plaintiff Hospitals involved in Opioid Litigation and list the parties represented; and d) submit the ARCOS Information Request Form and Affidavit via email to ARCOSRequest@levinlaw.com along with the executed Attachment B or C on behalf of counsel and a client representative. Once a valid request is received, and all terms of this Notice are complied with, Requesting Counsel will be given access to the data as outlined above. To the extent that Requesting Counsel has previously requested ARCOS data, please note that a new request consistent with the above procedure must be completed, in order to receive this data.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of May 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. The Court's electronic filing system will send notice of this filing to all parties. Parties may access this filing through the CM/ECF System.

/s/ Joseph F. Rice

Joseph F. Rice
Counsel for Plaintiffs